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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 8

Application Number: 09/915,631
Filing Date: July 26, 2001
Appellant(s): BAUDENDISTEL ET AL.

Frank C. Nicholas
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 3, 2003.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-20 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,726,886	YAMAKADO ET AL.	3-1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamakado et al.

Regarding Claim 1, Yamakado et al discloses a mount 162a/162b (see Figure 17) for a powertrain component 161 of a motor vehicle (see column 14 lines 57 et al) having all the features of the instant invention including: a first plate 41 connected to a powertrain component, a second plate 42 connected to a frame of a motor vehicle (at least indirectly connected, as suggested by column 14 lines 57 et al), and means 167 for measuring a capacitance between the first plate and the second plate to derive an actual value (see column 7 lines 34-48), comparing the actual value with an expected value (see column 7 lines 53-59), and adjusting damping characteristics of the mount as a function of a difference between the actual value and the expected value (see column 8 lines 55-62 and column 14 line 57 – column 15 line 14 and note that the capacitance between plates 41 and 42 in the acceleration differential sensor discussed in column 7

and shown in Figure 4 can be used by the system controller 167 to adjust the damping characteristics of the engine mounts 162a and 162b).

Regarding Claim 2, see controller 167.

Regarding Claim 3, again see means 167 which is readable as a capacitance-to-voltage device connected to the plates.

Regarding Claim 4, see Figure 17 wherein first plate 41 would be fixed relative to the powertrain equivalent component 161 (at least through joint 13, wherein as described in column 7 lines 11-15, the pendulum 1, in which plate 41 is attached thereto, can only move in one direction, therefore plate 41 is fixed, at least to some extent, with respect to the powertrain equivalent component 161, i.e., fixed in the directions the pendulum 1 is not allowed to move in).

Regarding Claim 5, see Figure 17 and second plate 42 would be fixed to some portion of the frame of a motor vehicle.

Regarding Claim 6, see Claim 1 above.

Regarding Claim 7, see engine 161 in Figure 17.

Regarding Claims 8 and 9, see Figure 4 where inherently plates 41 and 42 would be alternately charged, i.e., one positively charged and one negatively charged.

Regarding Claim 10, see Claims 1 and 2 above.

Regarding Claim 11, see Claim 1.

Regarding Claim 12, see Claim 4.

Regarding Claim 13, see Claim 5.

Regarding Claim 14, see Claim 6.

Regarding Claim 15, note capacitance-to-voltage device 167 forms part of the controller and is thus connected to the controller.

Regarding Claim 16, see engine 161 in Figure 17.

Regarding Claims 17 and 18, see Claims 8 and 9 above.

Regarding Claim 19, see Claims 1, 2, 4, 8, 9, and 10 above.

Regarding Claim 20, see Claim 6.

(11) Response to Argument

Applicant's argument A: The plate 42 of Yamakado et al is not connected to a frame

Regarding applicant's argument A, the examiner contends that plate 42 of the reference is in fact connected to a frame. As shown in Figure 17, sensor 163 is the sensor which would contain plate 42 (the structure of the sensor being shown in Figure 4 of the reference as stated in column 15 lines 4-7). This plate 42, while not being directly connected to the frame of the assembly (the frame being the portion located directly below the engine mounts), is indirectly connected to the frame at least through the controller component 167 and engine mounts 162a and 162b or subsequently, indirectly connected through the engine 161 and the engine mounts.

Therefore, since applicant has not claimed that the second plate 42 is directly connected to a frame, this limitation is met by Yamakado et al.

Applicant's argument B: With respect to Claim 19, the plate 41 of Yamakado et al is not fixed relative to a powertrain component or a frame

Regarding applicant's argument B, the examiner contends that plate 41 of the reference is fixed, at least to some extent, to the powertrain component 161. As discussed in column 7 lines 11-15 of the reference, at least through joint 13, the pendulum 1, in which plate 41 is attached thereto, can only move in one direction, therefore plate 41 is fixed, at least somewhat, with respect to the powertrain equivalent component 161, i.e., fixed in the directions/planes the pendulum 1 is not allowed to move in.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,
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7/8/03

pr
July 8, 2003

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